

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
JUNE 17, 2008
7:00 P.M.**

ROLLCALL Answering rollcall were Members Bennett, Housh, Masica, Swenson and Mayor Hovland.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Masica and seconded by Member Bennett approving the Council Consent Agenda as presented with the exceptions of Item I. Minutes of June 3, 2008, Regular Meeting; Item IV. B. Adventure Peak Remodel Improvement – Edinborough Park; Item V. E. Traffic Safety Report of June 4, 2008.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Motion by Member Masica, seconded by Member Housh to also remove from the Consent Agenda Item V. H. Set Hearing Date (07/01/08) Public Works Relocation.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

MARCH 9, 2009 PROCLAIMED EDINA UNPLUGGED NIGHT Mayor Hovland read a proclamation that proclaimed March 9, 2009 as “Edina Unplugged Night” in Edina. **Member Swenson made a motion that was seconded by Member Bennett adopting a proclamation proclaiming March 9, 2009, as Edina Unplugged Night in Edina.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Mayor Hovland presented the “Edina Unplugged Night” proclamation to Marcia Friedman, who spent a few minutes explaining the program and encouraging all citizens to participate in an Edina Unplugged Night with their families.

MINUTES – REGULAR MEETING OF JUNE 3, 2008 APPROVED Member Swenson made a motion to approve the minutes of the June 3, 2008, Regular Meeting as corrected. Member Masica seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***MINUTES - WORK SESSION OF JUNE 3, 2008, AND STUDY SESSION OF MAY 27, 2008 APPROVED** Motion made by Member Masica and seconded by Member Bennett approving the minutes of the Work Session of June 3, 2008, and the Study Session of May 27, 2008.

Motion carried on rollcall vote – five ayes.

SECOND READING GRANTED: ORDINANCE NO. 2008-04 AMENDING SECTION 850 REGARDING HEIGHTS Planner Teague explained the Council had granted first reading to the proposed ordinance at their meeting June 3, 2008. He noted the Council requested background information on the height of existing homes on large lots for consideration of allowing taller homes on large lots with large front yard setbacks.

Using a PowerPoint presentation, Mr. Teague displayed examples of ten recently built homes noting two homes had been built exceeding forty feet to the ridge line. He said both of the homes had front yard setbacks of 30 feet, and were located on relatively small lots. The two homes would not have met the proposed ordinance; one would have had to reduce the height to the ridge line by six feet nine inches and the other by seven feet. Mr. Teague said the other eight homes on larger lots with greater setbacks all would have met the forty foot to the ridge line requirement. He noted the measurements

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were taken from the proposed grade, and not the existing grade, per the recent ordinance amendment.

Public Comment

No one appeared to comment.

Member of Member Swenson, seconded by Member Housh to close the public hearing.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Member Swenson made a motion to grant second reading to Ordinance No. 2008-04 amending Section 850 regarding heights. Member Housh seconded the motion.

Council discussed the proposed ordinance and questioned whether additional language allowing taller homes on estates lots should be considered.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Mr. Hughes stated that based upon his understanding of the Council's direction the staff will not be conducting any further analysis of floor area ratio (FAR) or other single family residential standards until directed to do so by the City Council.

RESOLUTION NO. 2008-55 ADOPTED APPROVING REVISED FINAL DEVELOPMENT PLAN, AND REVISED CONDITIONAL USE PERMIT, AND RESOLUTION NO. 2008-59 ADOPTED APPROVING LOT DIVISION, 3101 & 3201 WEST 69TH STREET, DJR ARCHITECTS/TOM MILLER

Affidavits of Notice presented and ordered placed on file.

Mr. Teague stated the applicant was proposing to tear down two existing office buildings on 3201 and 3101 West 69th Street and replace them with two buildings containing 18,000 square feet of retail space and a 114-unit four-story apartment building located along the east side of the site adjacent to single family homes in Richfield. He said the applicant had revised their plans since receiving preliminary approval in 2007 by reducing the retail space from 40,000 square feet and increasing the number of apartments from 85 to 114. Mr. Teague said the current request would require:

1. A revised Conditional Use Permit for the apartments.
2. A revised Final Development Plan with retail building setback variances from thirty-five feet to twenty feet from York Avenue and 69th Street; apartment building setback variances from fifty-four feet to thirty-five feet; parking lot setback variance from twenty feet to five feet; and a building height variance from fifty feet to fifty-four feet for the apartments.
3. A Lot Division.

Mr. Teague reported the Planning Commission had recommended approval of the requested Final Development Plan, Conditional Use Permit and Lot Split at their May 28, 2008, meeting based upon staff findings and with eleven conditions; and the Zoning Board of Appeals approved the four requested variances at their June 5, 2008 meeting adding two conditions to their approval. He noted he had appealed the variance approvals to allow the City Council to take action on the entire project. Mr. Teague said the developer had updated their landscape plan and removed two parking spaces.

Proponent Presentation

Dean Dovolis, 5009 Ridge Road, representing TE Miller, and Robb Miller, 6921 York Avenue, owner introduced their development team: Michael Stoddard, DJR Architecture, Inc., Ben Erickson, Close Landscape Architecture, Michala Whelan, Sunde Engineering, PLLC, and Jim Benshoof and Mike Klobucar, Wenk Associates, Inc. They presented their proposed plans for the retail building and apartment using a PowerPoint presentation, plus sample boards of building materials and answered questions of the Council: signage, location of trash pick-up, potential retail clients, expected apartment tenant demographics, price points for apartments, explanation of green roof, sustainable features of the proposed development, green space of the development, traffic, parking, storm water management, proposed landscaping, and whether the project would be built exactly as per the plans submitted.

Public Comment

No one appeared to comment.

Member Swenson made a motion that was seconded by Member Housh to close the public hearing.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

Member Swenson made a motion to adopt Resolution No. 2008-55, seconded by Member Housh, granting revised Final Development Plan with requested variances and revised Conditional Use Permit for 3101 and 3201 West 69th Street, DJR Architects, Tom Miller with the following findings:

1. The proposal would meet the required standards and ordinances for a Final Development Plan.
2. The proposal would meet the required standards for a variance, because:
 - a. The proposed use of the property was reasonable; as it would encourage ground level retail and service uses that create an active pedestrian and streetscape environment.
 - b. The intent of the ordinance was to encourage retail uses to create an active pedestrian and streetscape environment that can provide future pedestrian connections.
 - c. The building height and setback variances for the apartments were now required because of the recent Zoning Ordinance amendment that now requires the building height to be measured from existing grade.
 - d. The proposed height and setbacks have not changed from the original plans. However the building was now over 50 tall when measuring from existing grade rather than proposed grade; therefore, the setback requirement increased from 35 feet to 54 feet.
 - e. If the project were built as a traditional strip mall with parking in front of the building, all setbacks would be met.
 - f. The proposal enhances the entrance to the street.
 - g. The variance for the parking setback would provide parking close to the store front entrances, similar to parallel or on-street parking in front of the stores.

and subject to the conditions outlined below:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan dated June 9, 2008.
 - Grading plan dated April 28, 2008.
 - Landscaping plan dated June 9, 2008.
 - Building elevations dated April 28, and June 9, 2008
 - Roof plan dated June 9, 2008
2. The following must be submitted to the City before the City issues a building permit:
 - a. A final landscape plan for staff approval
 - b. Record the resolution with the county.
3. The property owner was responsible for replacing any required landscaping that dies.
4. Submit a copy of the Nine Mile Creek Watershed District permit. The City may require revisions to the approved plans to meet the District's requirements.
5. All storm water from this site must be treated on-site.
6. Compliance with the conditions required by the City Engineer in his memo dated May 22, 2008.
7. Compliance with the conditions required by the Transportation Commission.

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8. A developer's agreement was required for public water main installation along West 69th Street and Xerxes Avenue, and for the sanitary sewer along West 69th Street.
9. Two surface parking spaces in front of the apartments must be eliminated to meet the required parking space setback from West 69th Street.
10. Bike storage must be provided to meet City Code.
11. No drive-through window access allowed for the retail buildings.
12. Fifty percent (50%) of the retail users in the building that faces York Avenue must have doors that have public access openings to the street.
13. The project will be built according to the final plans and specifications and with materials as presented at the June 17, 2008 City Council meeting.

Ayes: Bennett, Housh, Masica, Swenson, Hovland
Motion carried.

Member Swenson made a motion, seconded by Member Masica to adopt Resolution No. 2008-59 approving the lot division for 3101 and 3201 West 69th Street, DJR Architects, Tom Miller.

Ayes: Bennett, Housh, Masica, Swenson, Hovland
Motion carried.

RESOLUTION NO. 2008-56 ADOPTED GRANTING PRELIMINARY DEVELOPMENT PLAN AND PRELIMINARY REZONING APPROVAL 4010 WEST 65TH STREET, CROSSTOWN MEDICAL LLC

Affidavits of Notice presented and ordered placed on file.

Mr. Teague said the applicant was proposing to tear down the existing two-story, 26,000 square foot office building to build a 73,386 square foot, four-story medical office building with a six-level attached parking ramp. In order to proceed with the development, the applicant must go through the preliminary review by the Planning Commission and City Council which if granted would allow the developer to prepare the Final Plans for submission. He reported he had recommended denial of the preliminary review because the project was in need of seven variances. The Planning Commission at their May 28, 2008, meeting recommended the Council consider approval of the requested preliminary development plan and preliminary rezoning with nine conditions. Mr. Teague stated the Planning Commission also recommended the Zoning Board of Appeals favorably consider the necessary variances for the project.

Proponent Presentation

Alan Hill, BKO Development introduced the members of the proponent's group: Dr. David Holte, Twin Cities Orthopedics; Mark Hansen, Mohagen and Hansen Architectural Group; Brad Beard, Administrator Fairview Southdale Hospital; and property owner Larry Hegenes. Using a PowerPoint presentation, the proponents reviewed their project and answered questions of the City Council. Items noted included: the elevations of the current and proposed buildings, the green roof, management of storm water on site, possible removal of one-half of a level of parking, traffic, potential for widening of and/or intersection, bridge or ramp improvements relating to the nearby highway, the density/intensity of the proposed development, seven requested variances, whether rezoning precedent would be set if approval were granted, location of project relative to existing hospital, and potential impact on the greater Southdale area.

Public Comment

No one appeared to comment.

Member Masica made a motion that was seconded by Member Housh to close the public hearing.

Ayes: Bennett, Housh, Masica, Hovland
Motion carried.

Member Housh made a motion, seconded by Member Masica to adopt Resolution No. 2008-56 granting Preliminary Development Plan and Preliminary Rezoning to 4010 West 65th Street, Crosstown Medical LLC with the following conditions:

1. The Final Development Plan must be generally consistent with approved Preliminary Development Plan date-stamped April 28 & May 21, 2008.
2. Final rezoning would not include the existing parking ramp for Fairview Hospital.
3. The design and construction of the entire project must be done with the Sustainable Initiatives as outlined in the applicant's narrative within the staff report.
4. Trail and sidewalk connections must be included as demonstrated on the preliminary plans. Public easements must be established over all public sidewalks.
5. All buildings must be built with sprinkler systems, subject to review and approval of the Fire Marshal.
6. Compliance with all of the conditions outlined in the City Engineer's memo.
7. Compliance with all the conditions required by the Transportation Commission.
8. The Landscape Plan should be improved to add trees around the perimeter of the site, especially along the west and north lot line.
9. The top level of the parking ramp must be eliminated, and the applicant must enter into a proof of parking agreement. If parking becomes a problem, as determined by staff, the top level of the parking ramp must be constructed.

Ayes: Housh, Masica, Hovland

Nays: Bennett, Swenson

Motion carried.

PUBLIC COMMENT

No one appeared for public comment.

AWARD OF BID ENG 08-5 MORNINGSIDE WATER MAIN PIPE RE-LINING WM-481 Mr. Houle stated the award of bid for the 2008 Morningside water main pipe re-lining project had been continued from the June 3, 2008 to allow the apparent low bidder, Insituform, to provide answers about the proposed product's safety and longevity and to allow an analysis by the City's utility rate consultant of any potential rate increase for the Morningside Neighborhood water system. He said that Ehlers and Associates would need more time to complete their analysis. John Wallin, Finance Director, said he had done a simple calculation of the cost of the proposed improvements over their useful life and had derived an increased rate of between 60-90 cents per 100 cubic foot unit. However, he said this was not based on all the factors that would need to be reviewed in a true rate study. After a brief discussion, Mr. Hughes pointed out that the utility rate consultant would need time to provide a complete report determining if there was parity in the rate structures of the Morningside neighborhood and the rest of Edina.

Mr. Houle introduced Mr. David Rosenberg from Insituform Technologies USA, Inc. and Mr. Dave Purkiss from the National Sanitation Foundation to talk about the proposed product. Mr. Rosenberg read a statement talking about Insituform's product and answered questions of the Council regarding the safety and longevity of the proposal structural relining. Mr. Purkiss explained he managed the certification program for water distribution products for National Sanitation Foundation, International or NSF. Mr. Purkiss said he would be speaking about only the health effects of the product and not its durability. He stated the pipe proposed to be used in the relining project complied with the health effects requirements of NSF/ANSI Standard 61 for materials designed for contact with potable water. The Council asked questions of staff, Mr. Rosenberg and Mr. Purkiss including: the number of communities using the pipe proposed for the project in Edina, whether any complaints had been received, the proposed longevity of the pipe, whether any public health concerns had been raised in communities using the product, and how NSF developed Standard 61. Items of concern noted during the discussion included: the receipt of a petition from residents of the Morningside neighborhood requesting a public hearing on the project, disappointment over difficulty in obtaining sufficient information regarding the product proposed to be used in the re-lining, the urgency of the project, and cost of delaying the project.

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Member Bennett made a motion the bid be rejected.

Motion failed for lack of second.

Motion made by Member Masica and seconded by Member Swenson awarding the bid for Morningside Water main Lining Project to the recommended low bidder, Insituform Technologies USA, Inc. at \$1,238,974.00.

Ayes: Housh, Masica, Swenson, Hovland

Nay: Bennett

Motion carried.

AWARD OF BID ADVENTURE PEAK REMODEL IMPROVEMENT – EDINBOROUGH PARK

Motion made by Member Housh and seconded by Member Swenson awarding the bid for the Adventure Peak Remodel Improvement at Edinborough Park to the recommended low bidder, Earl G. Anderson, Inc. at \$53,390.00.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

AWARD OF BID ENG 08-3 BROWNDAL E BRIDGE IMPROVEMENT NO. BR-3 Motion made by Member Swenson and seconded by Member Housh awarding the bid for the Browndale Bridge Improvements to the recommended low bidder, Landwehr Construction, Inc. at \$460,300.97.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

AWARD OF BID ENG 08-8 HIGHLANDS NEIGHBORHOOD RECONSTRUCTION IMPROVEMENT NOS. BA-342, SS-438, STS-343, WM-476 & L-50

Assistant Engineer Sullivan reviewed the scope of the Highlands Neighborhood Reconstruction Improvement ordered by the City Council at their April 15, 2008, meeting. He stated the Council had directed staff to re-survey the neighborhood with options for street lighting. Mr. Sullivan reported staff met with a neighborhood committee member April 29, 2008, and the survey was sent out May 2, 2008. He said the survey results were inconclusive. Mr. Sullivan said that the project had been bid with the following three options:

1. Construct new underground wiring and new wood poles with cobra head lighting at key locations along Ayrshire Boulevard. (six light locations) - \$30,450, - \$600/REU
2. Construct new underground wiring and new wood poles with cobra head lighting at all existing light locations within the neighborhood. (twelve light locations) – \$54,390, - \$1050/REU
3. Construct new underground wiring and new decorative poles with acorn style lights at all existing light locations within the neighborhood. (twelve light locations) - \$111,510, - \$2150/REU

Following discussion, **motion made by Member Housh and seconded by Member Masica awarding the bid for the Highlands Neighborhood Reconstruction Improvements using Lighting Option 2 to the recommended low bidder, Northwest Asphalt, Inc. at \$1,219,494.75 with the City absorbing one-sixth of the cost of the street lighting portion of the project.**

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

RESOLUTION NO. 2008-54 APPROVED ACCEPTING VARIOUS DONATIONS Mayor Hovland explained that in order to comply with State Statute all donations to the City must be adopted by Resolution and approved by four favorable votes of the Council accepting the donations.

Member Bennett introduced Resolution No. 2008-54 accepting various donations. Member Masica seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

ORDINANCE NO. 2008-06 AMENDING SECTION 150 OF THE CODE CONCERNING PERSONNEL POLICIES Ms. Worthington explained the City's current personnel ordinance in some

cases has created a hardship for new staff because they were not allowed to use the sick leave they accrue in their first six months of employment. The proposed change to Section 150.06. Subd. 4, would start new employees with a bank of time equal to six months sick leave accrual which the employee could draw from during their first six months of employment. New employees would begin accruing additional sick leave in their seventh month so there would not be any additional amount of sick leave granted. She stated the change to Sections 150.07 Subd. 5, 150.10 Subds. 3 and 4 would aid making the overtime administration uniform and make consistent the use of “scheduled work days”.

Member Swenson made a motion to adopt Ordinance No. 2008-06 including waiver of Second Reading. Member Masica seconded the motion.

Roll call:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***DATE SET FOR 2008 BRAEMAR INSPECTION TOUR** Motion made by Member Masica and seconded by Member Bennett setting July 8, 2008, as the 43rd Annual Braemar Inspection Tour.

Motion carried on rollcall vote – five ayes.

***AMENDMENT TO MN FINANCIAL CRIMES TASK FORCE GRANT AGREEMENT APPROVED** Motion made by Member Masica and seconded by Member Bennett approving an amendment to the Minnesota Financial Crimes Task Force Grant Agreement with the State of Minnesota.

Motion carried on rollcall vote – five ayes.

TRAFFIC SAFETY REPORT OF JUNE 4, 2008 APPROVED Motion made by Member Swenson and seconded by Member Housh to approve the Traffic Safety Report of June 4, 2008.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***RESOLUTION NO. 2008-57 ADOPTED ACCEPTING MNDOT GRANT** Motion made by Member Masica and seconded by Member Bennett to adopt Resolution No. 2008-57 accepting a grant with MnDOT and authorizing execution of the grant agreement.

Motion carried on rollcall vote – five ayes.

CONDITIONS TO VARIANCE – CYPRESS EQUITIES Mr. Teague stated at their June 5, 2008 meeting, the Zoning Board of Appeals approved a request to amend one of the conditions that the City Council had previously placed on the variance approval to allow signage to face Centennial Lake. The revised condition would allow the maximum height to the top of the signs at sixteen feet eight inches, rather than fourteen feet, as originally conditioned. The difference was due to a change in the grade from north to south which was not realized when Council originally approved the variance. The original condition read: “No portion of a sign shall exceed fourteen feet in elevation.” The revision granted by the Board will read: “No portion of a sign on the East wall of Building A shall extend more than 4 feet above the canopy.” Following discussion, consensus was that there was no need to hold a public hearing, but to allow the variance as granted by the Zoning Board of Appeals without any formal Council action.

HEARING PUBLIC WORKS RELOCATION TO BE SET AT FUTURE MEETING Mr. Hughes explained he had requested Council action setting July 1, 2008, as a hearing date for the possible relocation of the Public Works facility be postponed. He stated the City was in the process of negotiating with ConAgra on the possible acquisition of their Edina property. Mr. Hughes said that he would come back and request the Council set a hearing date in the future if the negotiations were successful.

ORDINANCE NO. 2008-07 ADOPTED AMENDING THE CITY CODE CONCERNING LIQUOR LICENSING FOR ESTABLISHMENTS WITH AMUSEMENT DEVICES Mr. Hughes noted the proposed ordinance would remove outdated language in the City's Liquor Code and also clarify some regulations for On-Sale Intoxicating licenses. **Member Masica made a motion to adopt Ordinance No. 2008-07 amending Edina City Code Section 900 including waiver of second reading.** Member Swenson seconded the motion.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

***CONFIRMATION OF CLAIMS PAID** Motion made by Member Masica and seconded by Member Bennett approving payment of the following claims as shown in detail on the Check Register dated June 5, 2008, and consisting of 29 pages; General Fund \$197,010.26; CDBG Fund \$83.00; Communications Fund \$4,681.89; Working Capital Fund \$9,189.34; Construction Fund \$5,706.13; Art Center Fund \$1,599.23; Golf Dome Fund \$3,446.17; Aquatic Center Fund \$10,559.72; Golf Course Fund \$38,553.13; Ice Arena Fund \$137.00; Edinborough/Centennial Lakes Fund \$25,484.75; Liquor Fund \$92,130.44; Utility Fund \$60,273.90; Storm Sewer Fund \$1,746.96; PSTF Agency Fund \$7,078.39; **TOTAL \$457,680.31** and for approval of payment of claims dated June 11, 2008, and consisting of 39 pages: General Fund \$209,104.09; Communications Fund \$10,724.82; Working Capital Fund \$322,505.85; Art Center Fund \$2,121.49; Golf Dome Fund \$75.00; Aquatic Center Fund \$31,049.22; Golf Course Fund \$48,065.19; Ice Arena Fund \$30,053.73; Edinborough/Centennial Lakes Fund \$13,128.46; Liquor Fund \$236,876.12; Utility Fund \$439,519.33; Storm Sewer \$1,213.13; PSTF Agency Fund \$2,405.95; **TOTAL \$1,346,842.38** and for April 26, 2008 – May 25, 2008 Credit Card Transactions consisting of one page: **Total \$7,619.03.**

Motion carried on rollcall vote – five ayes.

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 12:35 a.m. June 18, 2008.

Respectfully submitted,

Debra A. Mangen, City Clerk